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16 ADVANCED CARDIOVASCULAR SYSTEMS, INC.

17
18 IN THE UNITED STATES DISTRICT COURT
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA
20 (SAN JOSE DIVISION)

21 **C. 98-1481** WHO

22 ADVANCED CARDIOVASCULAR SYSTEMS,
23 INC.

24 Plaintiff,

25 v.

26 ARTERIAL VASCULAR ENGINEERING,
27 INC.,

28 Defendant.

Civil Action No.

PATENT

COMPLAINT AND DEMAND
FOR JURY TRIAL

Plaintiff, Advanced Cardiovascular Systems, Inc. ("ACS"), for its Complaint
against Defendant Arterial Vascular Engineering, Inc. ("AVE"), alleges as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement that arises under the Patent Laws of
the United States, Title 35, United States Code. This Court has jurisdiction pursuant to 28 U.S.C.

1 §§ 1331 and 1338(a). Venue is proper in this District under 28 U.S.C. § 1391(b) and (c) and §
2 1400.

3
4 INTRADISTRICT ASSIGNMENT

5 2. Pursuant to the Local Rules of the U.S. District Court for the Northern
6 District of California, Civil L.R. 3-2, this action should be assigned to the San Jose division of the
7 U.S. District Court for the Northern District of California because the Defendant does business
8 within the San Jose division, and, on information and belief, the Defendant has offered to sell
9 and/or sold the accused products within the San Jose division. Moreover, a related action between
10 the parties, entitled Advanced Cardiovascular Systems, Inc. v. Arterial Vascular Engineering, Inc.,
11 Civ. No. C-97-21147-JW (PVT), currently is pending before the San Jose division of the U.S.
12 District Court for the Northern District of California.

13
14 PARTIES

15 3. Plaintiff ACS is a California corporation having its principal place of
16 business at 3200 Lakeside Drive, Santa Clara, California 95052-8167.

17 4. Upon information and belief, AVE is a Delaware corporation having its
18 principal place of business at 3576 Unocal Place, Santa Rosa, California 95403. AVE does
19 business and has carried out substantial trade and business within this judicial district and
20 throughout the State of California.

21
22 BACKGROUND

23 5. ACS is the owner of all right, title, and interest in and to United States
24 Letters Patent No. 5,735,893 entitled "Expandable Stents and Method for Making Same" (the
25 "'893 patent"), which issued on April 7, 1998 to ACS as assignee of the inventors Lilip Lau,
26 William M. Hartigan, and John F. Frantzen.

27 6. Stents of the type embodying the invention claimed in the '893 patent are
28 used for the treatment of damaged, diseased, narrowed (stenosed), or otherwise abnormal vessels

1 in human patients. Such stents have been made and sold by ACS and have received widespread
2 and favorable reception in the medical community. The invention covered by the '893 patent has
3 been and is now of great value to ACS and has achieved substantial commercial success.

4 7. AVE has been and is now making, using, offering for sale, and/or selling
5 stents, including the Micro Stent II and GFX stents, in this district and throughout the United
6 States for implantation into human vessels and arteries.

7
8 CAUSE OF ACTION FOR PATENT INFRINGEMENT

9 8. Plaintiff ACS repeats and realleges each and every allegation of paragraphs
10 1-7 above as though fully set forth herein.

11 9. AVE has infringed and is continuing to infringe the '893 patent, in this
12 judicial district and elsewhere in the United States, by making, using, offering for sale, and/or
13 selling stents for implantation into human vessels and arteries, including the Micro Stent II and
14 GFX stents, which embody the invention claimed in the '893 patent, all without authority or
15 license from ACS.

16 10. As a result of the above-cited infringement of the '893 patent by AVE, ACS
17 has been damaged in an amount to be determined at trial and has suffered and will continue to
18 suffer irreparable injury unless AVE is enjoined from infringing the '893 patent.

19
20 RELIEF REQUESTED

21 WHEREFORE, Plaintiff Advanced Cardiovascular Systems, Inc. demands
22 judgment against Arterial Vascular Engineering, Inc. as follows:

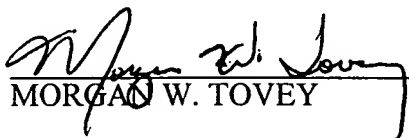
23 a. That AVE has been and is infringing the '893 patent by making, using,
24 offering for sale, and/or selling the Micro Stent II and GFX stents in the United States;

25 b. That AVE, its officers, employees, agents, servants, attorneys, and all others
26 in active concert or participation with AVE or under AVE's authority, be preliminarily and
27 permanently enjoined from making, using, offering for sale, and/or selling infringing stents,
28 including the Micro Stent II and GFX stents, and from otherwise infringing the '893 patent;

- 1 c. That ACS receive an accounting for damages arising from AVE's acts of
2 infringement, including profits made by AVE and lost by ACS as a result of AVE's activities;
3 d. That ACS be awarded judgment against AVE for the actual damages and
4 profits so ascertained, together with interests, costs, and reasonable attorneys' fees, pursuant to 35
5 U.S.C. §§ 284-5 or other applicable law;
6 e. That ACS be awarded such other and further relief as this Court deems just
7 and appropriate.
8
9

10 DATED: April 7, 1998

CROSBY, HEAFEY, ROACH & MAY

11
12 By: 
13 MORGAN W. TOVEY
14 Attorneys for Plaintiff
15 ADVANCED CARDIOVASCULAR
16 SYSTEMS, INC.
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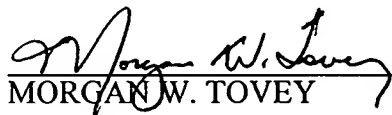
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JURY DEMAND

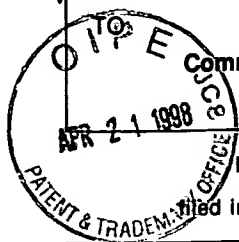
Plaintiff ACS hereby demands trial by jury on all issues so triable in this action.

DATED: April 7, 1998

CROSBY, HEAFEY, ROACH & MAY

By: 
MORGAN W. TOVEY

Attorneys for Plaintiff
ADVANCED CARDIOVASCULAR
SYSTEMS, INC.

Solicitor

Commissioner of Patents and Trademarks
Washington, D.C. 20231

**REPORT ON THE
FILING OR DETERMINATION OF AN
ACTION REGARDING A PATENT OR
TRADEMARK**

In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
filed in the U.S. District Court No. Dist. of CA **SOLICITOR** ☒ Patents or ☐ Trademarks:

DOCKET NO. 98-1481 WHO	DATE FILED 4/10/98	U.S. DISTRICT COURT Northern District of CA
PLAINTIFF Advanced Cardiovascular Systems		DEFENDANT U.S. PATENT & TRADEMARK OFFICE Arterial Vascular Engineering
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 5,735,893		see attached document.
2		
3		SOLICITOR
4		MAY 06 1998
5		U.S. PATENT & TRADEMARK OFFICE

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading			
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK		
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In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT

CLERK	(BY) DEPUTY CLERK	DATE
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